

DETAILED ACTION

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-7, drawn to the laminated and molded body, classified in class 428, subclass 35.7.
 - II. Claims, drawn to a method of manufacturing a laminated and molded body, classified in class 264, subclass 171.27.

The inventions are distinct, each from the other because of the following reasons:

2. Inventions II and I are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make another and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the laminated and molded body can be made by another and materially different process such as blow molding.

3. Restriction for examination purposes as indicated is proper because all these inventions listed in this action are independent or distinct for the reasons given above and there would be a serious search and examination burden if restriction were not required because one or more of the following reasons apply:

- (a) the inventions have acquired a separate status in the art in view of their different classification;
- (b) the inventions have acquired a separate status in the art due to their recognized divergent subject matter;

- (c) the inventions require a different field of search (for example, searching different classes/subclasses or electronic resources, or employing different search queries);
- (d) the prior art applicable to one invention would not likely be applicable to another invention;
- (e) the inventions are likely to raise different non-prior art issues under 35 U.S.C. 101 and/or 35 U.S.C. 112, first paragraph.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse. Traversal must be presented at the time of election in order to be considered timely. Failure to timely traverse the requirement will result in the loss of right to petition under 37 CFR 1.144. If claims are added after the election, applicant must indicate which of these claims are readable on the elected invention.

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Should applicant traverse on the ground that the inventions are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

4. During a telephone conversation with James Oliff on November 27, 2007 a provisional election was made without traverse to prosecute the invention of Group 1, claims 1-7. Affirmation of this election must be made by applicant in replying to this Office action. Claims 8-14 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

5. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

6. The examiner has required restriction between product and process claims. Where applicant elects claims directed to the product, and the product claims are subsequently found allowable, withdrawn process claims that depend from or otherwise require all the limitations of the allowable product claim will be considered for rejoinder. All claims directed to a nonelected process invention must require all the limitations of an allowable product claim for that process invention to be rejoined.

In the event of rejoinder, the requirement for restriction between the product claims and the rejoined process claims will be withdrawn, and the rejoined process claims will be fully examined for patentability in accordance with 37 CFR 1.104. Thus, to be allowable, the rejoined claims must meet all criteria for patentability including the requirements of 35 U.S.C. 101, 102, 103 and 112. Until all claims to the elected product are found allowable, an otherwise proper restriction requirement between product claims and process claims may be maintained. Withdrawn process claims that are not commensurate in scope with an allowable product claim will not be rejoined. See MPEP § 821.04(b). Additionally, in order to retain the right to rejoinder in accordance with the above policy, applicant is advised that the process claims should be amended during prosecution to require the limitations of the product claims. **Failure to do so may result in a loss of the right to rejoinder.** Further, note that the prohibition against double patenting rejections of 35 U.S.C. 121 does not apply where the restriction requirement is withdrawn by the examiner before the patent issues. See MPEP § 804.01.

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al. (US 5,712,009, hereinafter "Moore") in view of Yoshioka et al. (US 6,244,454, hereinafter "Yoshioka").

In regards to claims 1, 3 and 5-7, Moore discloses a multilayer hollow plastic container made by a co-extruding a multilayer parison, defined as a hollow plastic melt, tube that is extruded, and then blow molding the container (col. 2 lines 57-60). The container comprises multiple layers which has a resin layer with an added colorant (cols. 2-3 lines 66-67 and 1-2).

Moore is silent with regards to the properties of the co-extrusion used to form the multilayer parison.

Yoshioka discloses a container that is produced by extrusion and blow molding (col. 1 lines 51-52). The extrusion-molding forms a parison with two different resin layers (col. 1 line 57). Other layers made by optionally added such as a gas-barrier layer (col. 2 lines 52-55). The thickness of the layers in the parison is controlled by adjusting flow rates of the resins to specific values during extrusion. Thus, the layers have a continuous thickness along the extrusion path. The rotational speed of the screw of the first extruder is inverter-controlled by the parison thickness controller, thereby increasing the amount of one of the resins extruded for the portion corresponding to the section that one wishes (col. 6 lines 58-68). The examiner views that a predetermined path in a direction that intersects the extrusion path (fig. 1) has been established for the resin with respect with the extruding direction in a circular motion. Yoshioka discloses that the thickness of one of the layers of the cylindrically

body is 50% of the thickness (cols. 4-5 lines 67 and 1-2). It would be obvious to one of ordinary skill in the art at that time of the invention that any type of resin, such as that in Moore could be used in the co-extrusion process used in Yoshioka, because this would provide a colored product that would be useful for a commercial consumer and reduce the yellow haze produced from extrusion/blowing process.

9. Claims 1-2 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Moore et al. (US 5,712,009, hereinafter "Moore") in view of Ono et al. (JP 5-220739, hereinafter "Ono").

In regards to claims 1-5 and 7, Moore discloses a multilayer hollow plastic container made by a co-extruding a multilayer parison, defined as a hollow plastic melt, tube that is extruded, and then blow molding the container (col. 2 lines 57-60). The container comprises multiple layers which has a resin layer with an added colorant (cols. 2-3 lines 66-67 and 1-2).

Moore is silent with regards to the properties of the co-extrusion used to form the multilayer parison.

Ono discloses that a conventional equipment to form a multilayer parison with a primary and secondary resins that flow down two separate paths [0002]. The amount thickness of the layers is controlled by the flow of the resin through the co-extrusion machine [0002]. This type of equipment produces a parison that joins the principal member resin and secondary-member resin to form a shape of a straight line parallel to a parison axial center [0003]. Ono discloses that a parison can be made where if one wanted to make a predetermined configuration, i.e. a snake like column, then this would

be possible using a rotatable path for the secondary-member [0004]. The path rotates on a predetermined period, thus providing a constant thickness [0005]. It would be obvious to one of ordinary skill in the art at the time of the invention that one would combine the color resin of Moore with the process for co-extruding the parison of Ono to form a parison that would be useful for commercial purposes and provide a mask for the yellowness that is formed from the co-extrusion process.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ELLEN S. WOOD whose telephone number is (571)270-3450. The examiner can normally be reached on Monday-Thursday 7:30am-5:00pm EST Friday Off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, D. Lawrence Tarazano can be reached on 571-272-1515. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Art Unit: 4174

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Supervisory Patent Examiner, Art Unit 4174

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